

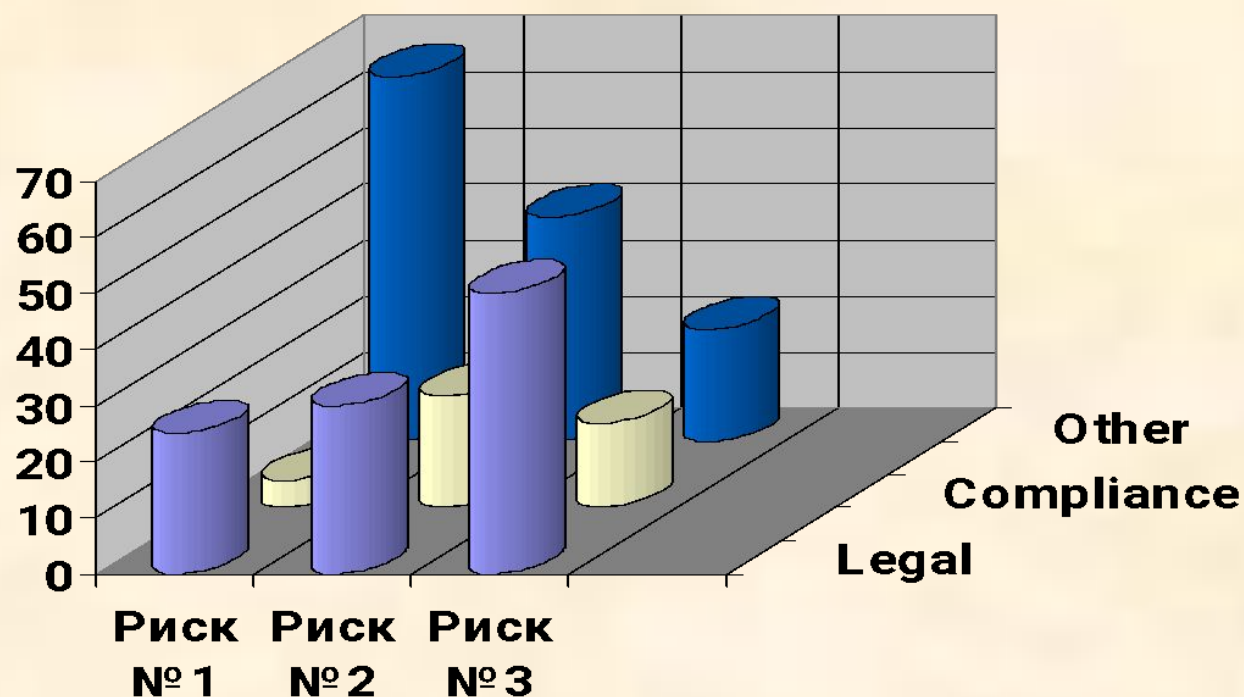


ЮРИДИЧЕСКИЕ И КОМПЛАЙЕНС РИСКИ СТРАНОВОЙ АСПЕКТ

Алексей КОТ
партнер ЮФ «САЛКОМ»
Киев, Украина

Legal и compliance risks

в системе рисков корпорации



Термин “LEGAL RISK” в международной практике (1)



UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 20-F

(Extract)

Risk factors. *The document shall prominently disclose risk factors that are specific to the company or its industry and make an offering speculative or one of high risk, in a section headed “Risk Factors”.*

Companies are encouraged, but not required, to list the risk factors in the order of their priority to the company. Among other things, such factors may include, for example: the nature of the business in which it is engaged or proposes to engage; factors relating to the countries in which it operates; the absence of profitable operations in recent periods; the financial position of the company; the possible absence of a liquid trading market for the company’s securities; reliance on the expertise of management; potential dilution; unusual competitive conditions; pending expiration of material patents, trademarks or contracts; or dependence on a limited number of customers or suppliers. The Risk Factors section is intended to be a summary of more detailed discussion contained elsewhere in the document.

<http://www.sec.gov/about/forms/form20-f.pdf>

Термин “LEGAL RISK”

в международной практике (2)



Basel II

International Convergence of Capital Measurement and Capital Standards a Revised Framework (Extract)

Comprehensive assessment of risks

732. *All material risks faced by the bank should be addressed in the capital assessment process. While the Committee recognizes that not all risks can be measured precisely, a process should be developed to estimate risks. Therefore, the following risk exposures which by no means constitute a comprehensive list of all risks should be considered.*

733. **Credit risk:** *Banks should have methodologies that enable them to assess the credit risk involved in exposures to individual borrowers or counterparties as well as at the portfolio level. For more sophisticated banks the credit review assessment of capital adequacy at a minimum, should cover four areas: risk rating systems, portfolio analysis/aggregation, securitisation/complex credit derivatives, and large exposures and risk concentration.s*

736. **Operational risk:** *The Committee believes that similar rigour should be applied to the management of operational risks as is done for the management of other significant banking risks. The failure to properly manage operational risk can result in a misstatement of an institution's risk/return profile and expose the institution to significant losses.*

738. **Market risk:** *This assessment is based largely on the bank's own measure of value-at-risk or the standardised approach for market risk. Emphasis should also be placed on the institution performing stress testing in evaluating the adequacy of capital to support the trading function.*

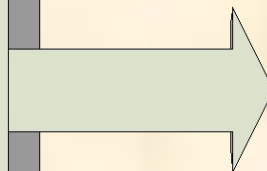
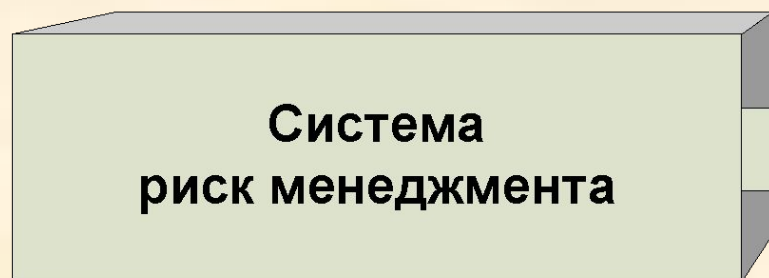
739. **Interest rate risk in the banking book:** *The measurement process should include all material interest rate positions of the bank and consider all relevant repricing and maturity data. Such information will generally include current balance and contractual rate of interest associated with the instruments and portfolios, principal payments, interest reset dates, maturities, the rate index used for repricing and contractual interest rate ceilings or floors for adjustable-rate items. The system should also have well-documented assumptions and techniques.*

741. **Liquidity risk:** *Liquidity is crucial to the ongoing viability of any banking organization. Banks' capital positions can have an effect on their ability to obtain liquidity, especially in a crisis. Each bank must have adequate systems for measuring, monitoring and controlling liquidity risk. Banks should evaluate the adequacy of capital given their own liquidity profile and the liquidity of the markets in which they operate.*

742. **Other risks:** *Although the Committee recognizes that 'other' risks such as reputational and strategic risk, are not easily measurable, it expects industry to further develop techniques for managing all aspects of these risks.*

<http://www.bis.org/publ/bcbs107c.pdf>

Потребители системы риск менеджмента



Основные потребители:

- акционеры (собственники)
- потенциальные собственники
- инвесторы

Иные потребители:

- менеджмент корпорации

Страновой аспект в идентификации рисков



Корпорация:

- место регистрации
- место размещения офиса
- место осуществления деятельности
- местонахождение активов

Акционер / Инвестор:

- страна, законодательству которой должен соответствовать акционер/инвестор

Иные связи:

- международные требования (практики)
 - биржевые требования
-

Страновой аспект

в контексте требований к бизнесу



Государство, как основной регулятор бизнеса, во многом определяет характер и степень рисков, связанных с ведением бизнеса в том или ином регионе



Благодарю за внимание!

Алексей КОТ

к.ю.н., партнер ЮФ «САЛКОМ»
Киев, Украина